

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

MAGISTRATE JUDGE
SIMONTON.

CASE NO.

00-3648-

CIV-NESBITT

UNITED STATES OF AMERICA,

Plaintiff,

V.

4.39 ACRES OF LAND, MORE OR
LESS, IN THE COUNTY OF
DADE, STATE OF FLORIDA; and
JOSE A. CHAPUR ZAHOU, L
et al., and Unknown Owners,

Defendants.

Tract No. 120-39
(EAST EVERGLADES)

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FBI NEW YORK
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**COMPLAINT IN CONDEMNATION
PURSUANT TO DECLARATION OF TAKING**

1. The plaintiff, the United States of America, by and through the undersigned Assistant United States Attorney for the Southern District of Florida, hereby brings this action to take property at the request of HORACE G. CLARK, Regional Solicitor, Southeast Region, U.S. Department of the Interior, for the taking of 4.39 Acres of Land, More or Less, Situated in Dade County, Florida, under the power of eminent domain, by and through the Declaration of Taking executed by HORACE G. CLARK, and for the ascertainment and award of just compensation to the owners and parties in interest.

2. The authority for the taking of the land is stated in Schedule A, attached hereto.

3. The public uses for which the land is taken is stated in

Schedule A, attached hereto.

4. The property taken, the estates to be taken and the names and addresses of persons having or claiming an interest in the property are contained in Schedules B and C attached hereto.

5. A plat showing the land taken is attached as Schedule D.

6. Local and State taxing authorities may have, or claim, an interest in the property by reason of taxes and assessments.

7. In addition to the persons named, there are, or may be, others who have or may claim some interest in the property taken, whose names are unknown to the plaintiff; such persons are, hereby, made parties to the action under the designation, "Unknown Owners."

WHEREFORE, the plaintiff prays that this Court order that the property be condemned, pursuant to both the Declaration of Taking filed with this complaint and the Declaration of Taking Act, 40 U.S.C. § 258a; that just compensation for the taking be ascertained and awarded; and that this court order such other relief as may be lawful.

Respectfully submitted,

GUY A. LEWIS
UNITED STATES ATTORNEY

By: 

WILLIAM C. HEALY
Assistant United States Attorney
Florida Bar No. 0848395
99 N.E. 4th Street
Miami, Florida 33132
TEL: (305) 961-9438
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SCHEDULE "A"

EVERGLADES NATIONAL PARK

AUTHORITY FOR THE TAKING

The authority for the taking of the land is under and in accordance with the Act of Congress approved August 1, 1888, 25 Stat. 357, as amended, 40 U.S.C., sec. 257; the Act of Congress approved February 26, 1931, 46 Stat. 1421, as amended, 40 U.S.C., sec. 258a, the Act of May 30, 1934, 48 Stat. 816, as amended, which authorized the establishment of Everglades National Park; the Act of December 13, 1989, 103 Stat. 1946, 16 U.S.C., sec. 410r-5, et seq., which expanded the boundaries of Everglades National Park; and the Land and Water Conservation Fund Act of 1965, 78 Stat. 897, as amended, 16 U.S.C., sec. 460l-4, et seq.; and under the authority of the Department of Interior and Related Agencies Appropriation Act, 2000, as enacted by section 1000 (a) (3) of the Consolidated Appropriations Act, 2000 (Public Law 106-113), which Act appropriated funds for such purposes.

PUBLIC USES

The public uses for which said land is to be taken are as follows: The land is required to modify the boundaries of Everglades National Park and to provide for the protection of lands, waters, and natural resources within the park for the benefit and enjoyment of future generations. The said land has been selected for acquisition by the United States of America for said purposes, and for such other uses as may be authorized by Congress or by Executive Order.

SCHEDULE "B"

EVERGLADES NATIONAL PARK

Tract 120-39

DESCRIPTION:

All that certain tract or parcel of land lying and being situated in the County of Dade, State of Florida, and being more particularly described as follows:

Tallahassee Meridian
Section 21, Township 54 South, Range 38 East,

N1/2 S1/2 SE1/4 Less East 2,350 feet

Containing 4.39 acres, more or less.

Estimated compensation deposited in the Registry of the Court for the above-described property is \$2,200.00.

ESTATE TAKEN:

The fee simple title subject to: (a) all interests of the State of Florida or any political subdivision thereof; (b) oil, gas, and mineral interests of record outstanding in third parties; (c) rights of others in and to an easement for road rights-of-way, utilities, and drainage, created by a Dedication, dated June 30, 1970, and recorded in O.R.B. 6909, Page 480, of the Public Records of Dade County, Florida; and (d) existing easements for public roads and highways, public utilities, railroads, and pipelines.

SCHEDULE "C"

EVERGLADES NATIONAL PARK

Tract 120-39

NAMES AND ADDRESSES OF PURPORTED OWNERS:

Jose A. Chapur Zahoul and Maria Eugenia Dajer De Chapur, his wife
(address unknown)

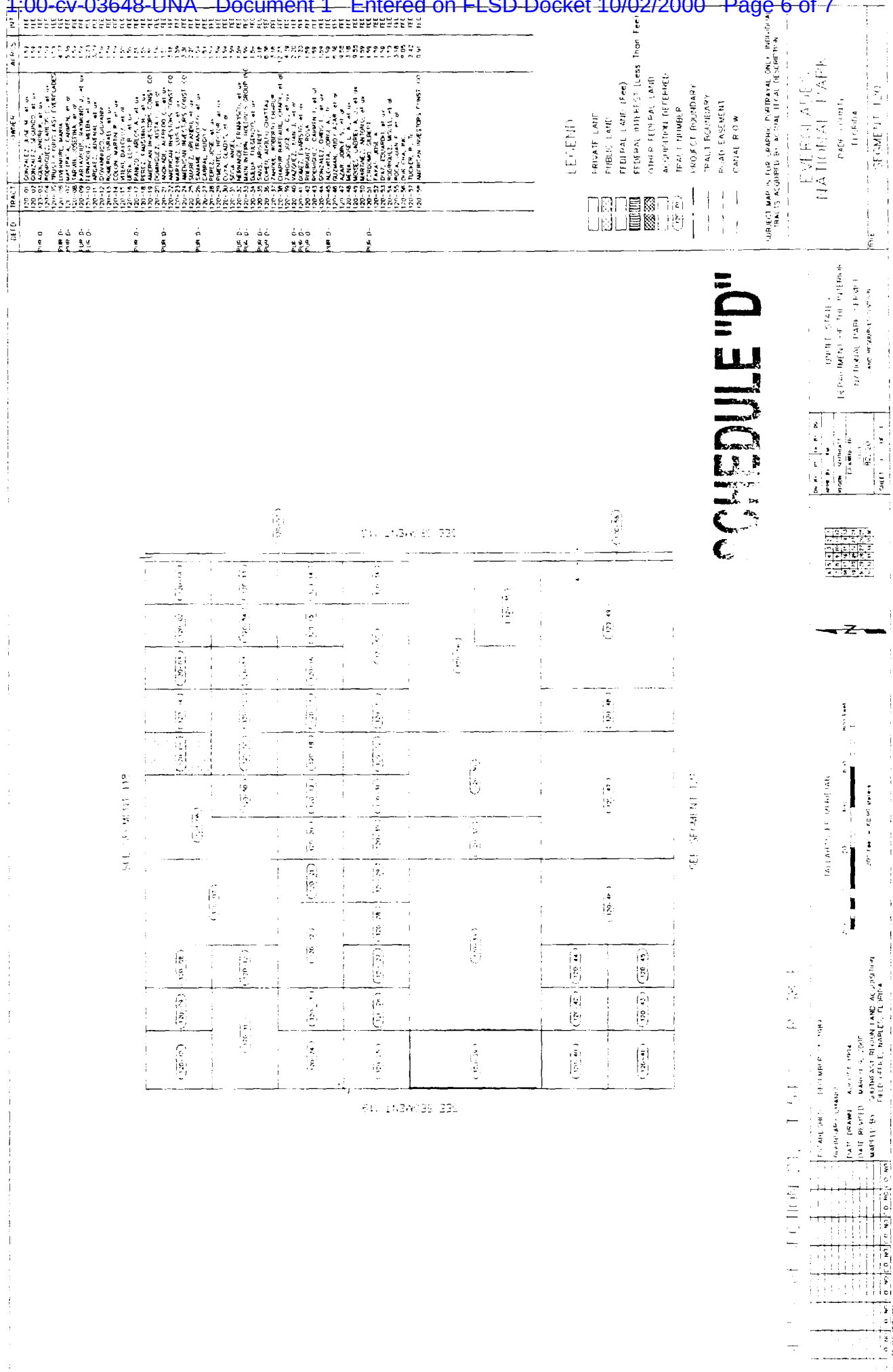
last known address: Calle 58 No. 509 Merida
Yucatan, Mexico 33174

NAMES AND ADDRESSES OF OTHER PARTIES WHO MAY HAVE OR CLAIM AN
INTEREST IN THE LAND:

Ann Tucker or J. Tucker, Trustee
Post Office Box 144366
Coral Gables, FL 33114
(by virtue of Tax Certificate for 1999)

Tax Collector
Tax Collection Division, South Dade Branch
County of Dade
10710 Southwest 211th Street
Miami, Florida 33189
(by virtue of a possible lien for real property taxes)

Unknown owners



JS 44
(Rev. 12/96)**CIVIL COVER SHEET 00-3648-**

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

UNITED STATES OF AMERICA

MAGISTRATE JUDGE
SIMONTON**DEFENDANTS**4.39 Acres of Land, More or Less Situated in Dade County,
Florida; and Jose A. Chapur Zahoul**CIV-NESBITT**

COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF

(b)

(EXCEPT IN U.S. PLAINTIFF CASES)

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE
TRACT OF LAND INVOLVED.

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

William C. Healy, AUSA
99 N.E. 4th Street
Miami, FL 33132
(305) 961-9438

ATTORNEYS (IF KNOWN)

(d) CIRCLE COUNTY WHERE ACTION AROSE: DADE MONROE, BROWARD, PALM BEACH, MARTIN, ST. LUCIE, INDIAN RIVER, OKEECHOBEE, HIGHLANDS**II. BASIS OF JURISDICTION** (PLACE AN "X" IN ONE BOX ONLY)

- ☐ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question (U.S. Government Not a Party)
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN "X" IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

VI. ORIGIN

(PLACE AN "X" IN ONE BOX ONLY)

- ☐ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from another district (specify)
- ☐ 6 Multidistrict Litigation
- ☐ 7 Appeal to District Judge from Magistrate Judgment

V. NATURE OF SUIT (PLACE AN "X" IN ONE BOX ONLY)

- | A CONTRACT | A TORTS | FORFEITURE/PENALTY | A BANKRUPTCY | A OTHER STATUTES |
|---|--|--|---|--|
| <input type="checkbox"/> 110 Insurance | <input type="checkbox"/> 310 Airplane | <input type="checkbox"/> 610 Agriculture | <input type="checkbox"/> 422 Appeal 28 USC 158 | <input type="checkbox"/> 400 State Reapportionment |
| <input type="checkbox"/> 120 Marine | <input type="checkbox"/> 315 Airplane Product Liability | <input type="checkbox"/> 620 Other Food & Drug | <input type="checkbox"/> 423 Withdrawal 28 USC 157 | <input type="checkbox"/> 410 Antitrust |
| <input type="checkbox"/> 130 Miller Act | <input type="checkbox"/> 320 Assault, Libel & Slander | <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 | <input type="checkbox"/> 450 Commerce/ICC Rates/etc. | <input type="checkbox"/> 430 Banks and Banking |
| <input type="checkbox"/> 140 Negotiable Instrument | <input type="checkbox"/> 330 Federal Employers' Liability | <input type="checkbox"/> 630 Liquor Laws | <input type="checkbox"/> 460 Deportation | <input type="checkbox"/> 450 Commerce/ICC Rates/etc. |
| <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment | <input type="checkbox"/> 340 Marine | <input type="checkbox"/> 640 R.R. & Truck | <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations | <input type="checkbox"/> 460 Deportation |
| <input type="checkbox"/> 151 Medicare Act | <input type="checkbox"/> 345 Marine Product Liability | <input type="checkbox"/> 650 Airline Regs. | <input type="checkbox"/> 820 Copyrights | <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations |
| <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) | <input type="checkbox"/> 350 Motor Vehicle | <input type="checkbox"/> 660 Occupational Safety/Health | <input type="checkbox"/> 830 Patent | <input type="checkbox"/> 810 Selective Service |
| <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits | <input type="checkbox"/> 355 Motor Vehicle Product Liability | <input type="checkbox"/> 690 Other | <input type="checkbox"/> 840 Trademark | <input type="checkbox"/> 850 Securities/Commodities/Exchange |
| <input type="checkbox"/> 160 Stockholders' Suits | <input type="checkbox"/> 360 Other Personal Injury | A LABOR | B SOCIAL SECURITY | <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 |
| <input type="checkbox"/> 190 Other Contract | A CIVIL RIGHTS | <input type="checkbox"/> 710 Fair Labor Standards Act | <input type="checkbox"/> 861 HIA (1395ff) | <input type="checkbox"/> 891 Agricultural Acts |
| <input type="checkbox"/> 195 Contract Product Liability | <input type="checkbox"/> 441 Voting | <input type="checkbox"/> 720 Labor/Mgmt. Relations | <input type="checkbox"/> 862 Black Lung (923) | <input type="checkbox"/> 892 Economic Stabilization Act |
| A REAL PROPERTY | <input type="checkbox"/> 442 Employment | <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act | <input type="checkbox"/> 863 DIWC/DIWW (405(g)) | <input type="checkbox"/> 893 Environmental Matters |
| <input type="checkbox"/> 210 Land Condemnation | <input type="checkbox"/> 443 Housing/Accommodations | <input type="checkbox"/> 740 Railway Labor Act | <input type="checkbox"/> 864 SSID Title XVI | <input type="checkbox"/> 894 Energy Allocation Act |
| <input type="checkbox"/> 220 Foreclosure | <input type="checkbox"/> 444 Welfare | <input type="checkbox"/> 790 Other Labor Litigation | <input type="checkbox"/> 865 RSI (405(g)) | <input type="checkbox"/> 895 Freedom of Information Act |
| <input type="checkbox"/> 230 Rent Lease & Ejectment | <input type="checkbox"/> 440 Other Civil Rights | <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act | FEDERAL TAX SUITS | <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice |
| <input type="checkbox"/> 240 Torts to Land | PRISONER PETITIONS | | <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) | <input type="checkbox"/> 950 Constitutionality of State Statutes |
| <input type="checkbox"/> 245 Tort Product Liability | <input type="checkbox"/> 510 Motions to Vacate Sentence | | <input type="checkbox"/> 871 IRS - Third Party 26 USC 7609 | <input type="checkbox"/> 890 Other Statutory Actions |
| <input type="checkbox"/> 290 All Other Real Property | HABEAS CORPUS: | | | |
| | <input type="checkbox"/> 530 General | | | |
| | <input type="checkbox"/> 535 Death Penalty | | | |
| | <input type="checkbox"/> 540 Mandamus & Other | | | |
| | <input type="checkbox"/> 550 Civil Rights | | | |
| | <input type="checkbox"/> 555 Prison Condition | | | |

VI. CAUSE OF ACTION(CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE BRIEF STATEMENT OF CAUSE.
DO NOT CITE JURISDICTIONAL UNLESS DIVERSITY.)

16 U.S.C. 410r-5

(Land Commissioner, Other East Everglades cases covered by Admin. Orders 96-13, 97-08 & 99-20)

LENGTH OF TRIAL

via days estimated (for both sides to try entire case)

VII. REQUESTED IN COMPLAINT:CHECK IF THIS IS A
UNDER F.R.C.P. 23

CLASS ACTION

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ YES ☒ NO**VIII. RELATED CASE(S) IF ANY**

JUDGE

NESBITT

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE